



Terry Hyser appeals following the dismissal of his complaint in Miami Circuit Court, arguing that the trial court improperly certified the litigation as frivolous, unreasonable, or groundless under Indiana Code section 35-50-6-5(a)(4). We affirm.

### **Facts and Procedural History**

In 2002, Hyser, an inmate at Miami Correctional Facility, executed a limited power of attorney authorizing the Commissioner of the Department of Correction (“DOC”) to act as Hyser’s attorney in fact for the purpose of endorsing money orders sent to Hyser. On December 13, 2005, Hyser filed a complaint in Miami Circuit Court seeking to revoke the power of attorney. On the same day, the trial court entered an order waiving filing fees and specifically noting for Hyser’s benefit that Indiana Code section 30-5-10-1 provides statutory authority for revocation of a power of attorney without intervention of the court. Appellee’s App. p. 6. In response to the Defendants’ answer, Hyser filed an “Answer and Statement to State” and attached an information sheet on the revocation of a power of attorney provided by the prison law library and a blank form for revocation of power of attorney. *Id.* pp. 10-12.

On March 28, 2006, the trial court dismissed Hyser’s complaint under Indiana Trial Rule 12(B)(6). In the dismissal order, the court certified that the litigation was frivolous, groundless, and unreasonable under Indiana Code section 35-50-6-5(a). *Id.* p. 14. As a result, Hyser later received a written reprimand and a sixty-day earned credit time deprivation. This appeal ensued.

## Discussion and Decision

Hyser appeals the trial court's certification of his complaint as frivolous, groundless, and unreasonable under Indiana Code section 35-50-6-5(a)(4). The statute provides that an inmate may be deprived of earned credit time "[i]f a court determines that a civil claim brought by the person in a state or administrative court is frivolous, unreasonable or groundless." Ind. Code § 35-50-6-5(a)(4) (2004 & Supp. 2006). The relevant terms have been defined as follows:

a claim is frivolous if it is made primarily to harass or maliciously injure another, if the proponent is not able to make a good-faith and rational argument on the merits of the claim, or if the proponent cannot support the action by a good-faith and rational argument for extension, modification, or reversal of existing law. A claim is "unreasonable" if, considering the totality of the circumstances, no reasonable attorney would consider the claim justified or worthy of litigation. A claim is "groundless" if there are no facts that support the legal claim relied upon.

Sumbry v. Boklund, 836 N.E.2d 430, 431 (Ind. 2005) (quoting Parks v. Madison County, 783 N.E.2d 711, 725 (Ind. Ct. App. 2002), trans. denied).

As the trial court noted in its order waiving filing fees, Indiana Code section 30-5-10-1 provides statutory authority for revocation of a power of attorney without court intervention. See Appellee's App. p. 6; Ind. Code § 30-5-10-1 (2006). Hyser nevertheless persisted with his claim. As such, Hyser's action was clearly frivolous, unreasonable, and groundless and the trial court properly certified it as such under Indiana Code section 35-50-6-5(a)(4).

Affirmed.

SHARPNACK, J., and KIRSCH, J., concur.